

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER MICHAEL BUTLER,

Plaintiff,

v.

DAVID ROBINSON, et al.,

Defendants.

No. 1:22-cv-01591-ADA-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
ACTION FOR FAILURE TO PROSECUTE

(ECF No. 9)

Plaintiff Christopher Michael Butler is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 21, 2022, the Magistrate Judge screened Plaintiff's complaint, finding that Plaintiff had failed to state a cognizable claim and granting leave to file a first amended complaint. (ECF No. 5.) On January 30, 2023, after Plaintiff failed to file an amended complaint, the Magistrate Judge issued an order to show cause as to why the action should not be dismissed for failure to prosecute and failure to comply with a court order. (ECF No. 7.) The order was subsequently returned to the Court as undeliverable, with the notation, "Undeliverable, Return to Sender, Inmate Not Here." (*See* docket.) On February 22, 2023, the Magistrate Judge issued findings and recommendations recommending dismissal of Plaintiff's case for failure to state a cognizable claim, failure to prosecute, and failure to comply with a court order. (ECF No.

9.) The Court served Plaintiff by mail at the address on file with the Court. Again, the Postal Service returned the findings and recommendations as undeliverable with the notation, “Undeliverable, RTS.” (*See* docket.)

The Local Rules provide,

A party appearing in propria persona shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

More than sixty-three days have passed since the Postal Service returned as undeliverable the Magistrate Judge’s order to show cause. Plaintiff has not answered that order or filed objections to the Magistrate Judge’s findings and recommendations.

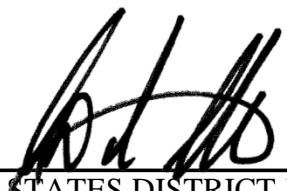
In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and proper analysis.

Accordingly,

1. The findings and recommendations issued on February 22, 2023, (ECF No. 9), are adopted in full;
2. This action is dismissed for failure to state a cognizable claim for relief, failure to comply with a court order, and failure to prosecute; and
3. The Clerk of Court is directed to close this case.

IT IS SO ORDERED.

Dated: May 30, 2023


UNITED STATES DISTRICT JUDGE